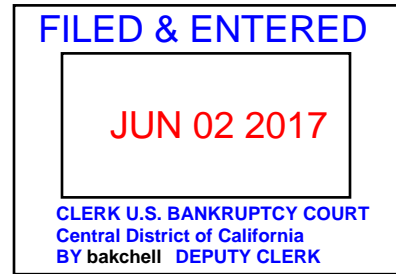


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DANIEL'S JEWELERS



UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION

CHANGES MADE BY COURT

In re	}	Case No.: 2:17-11388-RK
MALLIKA NEDELIJOV		CHAPTER 7
		ORDER DENYING EXAMINATION AND PRODUCTION OF DOCUMENTS UNDER BANKRUPTCY RULE 2004
Debtor,		Date: 06/02/2017 Time: 02:00PM Place: 131 N TUSTIN AVE SUITE 200 TUSTIN CA 92780

Having considered the motion of Daniel Jewelers ("Movant") to examine the above-named Debtor under Rule 2004 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule 2004-1 and 9013-1(o), the court orders that the Motion is DENIED WITHOUT PREJUDICE for inadequate notice of an order to appear for examination to Debtor.

The court determines that Movant's submission by attorney, Mr. Snyder, of a declaration of non-opposition recently received by the court, only served on it by regular

1 United States mail on May 22, 2017, and not received by the court until approximately  
2 May 25, 2017, right before the Memorial Day holiday on Monday May 29, 2017, does  
3 not give reasonable and fair notice to Debtor to appear for examination about Movant's  
4 collateral, only a few days later. By the time the court reviewed the declaration of non-  
5 opposition and processed the order for examination on June 1, 2017, there would be no  
6 notice to Debtor to appear for the examination on June 2, 2017. The court reviewed the  
7 declaration of non-opposition on June 1, 2017. The examination was scheduled for  
8 June 2, 2017.  
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11 The lack of notice for an order for examination is apparently attributable to  
12 Movant's incorrectly following procedures of Local Bankruptcy Rule 9013-1(o), which is  
13 applicable to motions determined after notice and opportunity to request hearing, which  
14 provides for a 15-day waiting period before submission of an order granting such  
15 motion. However, Movant followed the wrong rule for its Motion for Examination under  
16 Rule 2004, which is covered by Local Bankruptcy Rule 9013-1(p), applicable to motions  
17 determined with notice, but without a hearing, which does not have any 15-day waiting  
18 period for the court to rule on the motion as provided in Local Bankruptcy Rule 2004-1.  
19 Under Local Bankruptcy Rule 2004-1(c), as long as the movant gives not less than 21-  
20 days notice of the examination from the date the motion is served, the court can rule on  
21 the motion for examination without hearing immediately, without further waiting pursuant  
22 to Local Bankruptcy Rule 2004-1(d). The party to be examined still has the right to seek  
23 a protective order under Local Bankruptcy Rule 2004-1(f) if the motion for examination  
24 is granted and an order for examination is issued and the motion for protective order is  
25 filed not less than 14 days before the date of the examination. However, in this case,  
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1 because Movant misunderstood the Local Bankruptcy Rules, the court's review of the  
2 motion and issuance of an order for examination was unreasonably delayed, so that  
3 Debtor as the party required to appear for examination, had no notice of a court order  
4 that the motion for examination is being granted and that the appearance for  
5 examination is required. During this time period of at least 15 days that Movant waited  
6 to submit the proposed order for examination, Debtor did not know whether an  
7 appearance for examination was required or not, which deprived Debtor the right to file  
8 a motion for protective order, which must be filed not less than 14 days before  
9 examination. In this example, there was no review of the declaration of non-opposition  
10 and order until the day before the scheduled examination. The court may or may not  
11 review it on the day Movant submitted it, and it could be several days before the order is  
12 reviewed, approved, entered and served by mail. The Debtor would not receive a copy  
13 of the order prior to the examination date.

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17 The above named Debtor is **NOT** ordered to appear before Movant's attorney,  
18 Mr. Snyder, at his office at 18002 Irvine Blvd., Suite 200, Tustin, CA 92780, on June 2,  
19 2017 at 2:00 p.m. **The examination is cancelled by this order.** However, Debtor is  
20 advised that the examination may be rescheduled and ordered if Movant follows the  
21 proper procedures under Local Bankruptcy Rules 2004-1 and 9013-1(p) and promptly  
22 submits a proposed order for examination once it files and serves a new motion for  
23 examination of Debtor under these rules, so that the court can issue an order for  
24 examination if the new motion is granted, which will provide reasonable advance notice  
25 to Debtor to appear for examination.

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28 Meanwhile, by this order, Movant's motion for examination of Debtor is DENIED

1 WITHOUT PREJUDICE, Debtor need not appear before Movant's attorney on June 2,  
2 2017 and Movant is admonished to follow the correct rules and procedures in bringing  
3 motions for Rule 2004 examination.  
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5 IT IS SO ORDERED.  
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25 Date: June 2, 2017  
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27 Robert Kwan  
28 United States Bankruptcy Judge